



COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

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ALHAMBRA, CALIFORNIA 91803-1331
Telephone: (626) 458-5100
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GAIL FARBER, Director

ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

October 15, 2013

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

18 October 15, 2013

Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

Dear Supervisors:

**TOTAL MAXIMUM DAILY LOAD COORDINATED MONITORING PLAN FOR BALLONA CREEK,
BALLONA ESTUARY, AND SEPULVEDA CHANNEL BACTERIA MEMORANDUM OF
AGREEMENT BETWEEN THE COUNTY OF LOS ANGELES AND THE CITY OF LOS ANGELES
(SUPERVISORIAL DISTRICTS 2, 3, AND 4)
(3 VOTES)**

SUBJECT

This action is to enter into a cooperative Memorandum of Agreement between the County of Los Angeles and the City of Los Angeles to provide for the County of Los Angeles' share of the cost to revise and implement the Coordinated Monitoring Plan required by the Ballona Creek, Ballona Estuary, and Sepulveda Channel Bacteria Total Maximum Daily Load. The estimated total cost of the Memorandum of Agreement for the County of Los Angeles is \$20,222.

IT IS RECOMMENDED THAT THE BOARD:

1. Find that the proposed Ballona Creek, Ballona Estuary, and Sepulveda Channel Bacteria Total Maximum Daily Load Coordinated Monitoring Plan Memorandum of Agreement is exempt from the California Environmental Quality Act for the reasons stated in this letter and in the record of the project.
2. Based on available funding appropriation, authorize the Director of Public Works or her designee to execute the Memorandum of Agreement to become effective on the date of final execution by the County of Los Angeles or the City of Los Angeles until June 30, 2015, for an estimated total County of Los Angeles cost of \$20,222.

3. Authorize the Director of Public Works or her designee to execute any necessary amendments to this Memorandum of Agreement with the City of Los Angeles to share in the costs of implementing the coordinated monitoring plan provided that any amendments that relate to costs are budgeted and do not increase the County of Los Angeles' annual cost by more than 10 percent.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The purpose of the recommended actions is to find the proposed Memorandum of Agreement (MOA), in a form substantially similar to the enclosed, exempt from the California Environmental Quality Act (CEQA) and to authorize the Director of Public Works or her designee to execute the MOA with the City of Los Angeles (City) to revise and implement the monitoring required by the Ballona Creek, Ballona Estuary, and Sepulveda Channel Bacteria Total Maximum Daily Load (BC Bacteria TMDL) Coordinated Monitoring Plan (CMP). The MOA is to become effective on the date of final execution by the County of Los Angeles or the City and shall remain in effect until June 30, 2015, for a total County cost not to exceed \$20,222.

The California Regional Water Quality Control Board, Los Angeles Region, adopted the BC Bacteria TMDL on June 8, 2006, as Resolution No. 2006-011, and it became effective on April 27, 2007. The BC Bacteria TMDL identifies the County, the California Department of Transportation, the City, and the cities of Beverly Hills, Culver City, Inglewood, Santa Monica, and West Hollywood as the responsible agencies for meeting TMDL requirements, including implementation of or continued participation in required monitoring programs.

On June 9, 2010, the Board adopted a Resolution that authorized the Chief Executive Officer to execute an MOA with the City to implement the CMP for the BC Bacteria TMDL. The MOA became effective on June 30, 2010, and expired on June 30, 2012.

The new National Pollutant Discharge Elimination System Permit for municipal stormwater and urban runoff discharge within Los Angeles County became effective on December 28, 2012. The BC Bacteria TMDL was incorporated into the National Pollutant Discharge Elimination System Permit, and as a result, the BC Bacteria TMDL-responsible agencies are mandated to demonstrate compliance with the BC Bacteria TMDL through continued participation in the monitoring programs and subject to enforcement if the water quality standards established by this BC Bacteria TMDL are not met.

To revise and continue with the implementation of the CMP for the BC Bacteria TMDL, the City will enter into separate cost-sharing MOAs with all of the other BC Bacteria TMDL-responsible agencies for those agencies to pay their shares of the CMP cost. Each TMDL-responsible agency's share, including the County's and the City's, of this monitoring program is based on the jurisdictional land area within the contributing watershed identified in the BC Bactria TMDL. The City has agreed to continue acting on behalf of all BC Bacteria TMDL-responsible agencies and will be paid a fee of up to 5 percent of the cost to perform the work under the MOA for project management and contract administration.

Implementation of Strategic Plan Goals

The Countywide Strategic Plan directs the provision of Fiscal Sustainability (Goal 2). The MOA supports the Goal by strengthening the County's capacity to sustain essential County services through proactive and prudent fiscal policy.

FISCAL IMPACT/FINANCING

As shown on Table 4 of the enclosed MOA, the net County cost for Fiscal Years 2012-13, 2013-14, and 2014-15 is estimated to be \$6,047, \$7,757, and \$6,419, respectively. The costs include revising the BC Bacteria TMDL CMP, monitoring, contract management, and a yearly increase to address inflation. The net County cost for the first two years of this MOA is included in the Fiscal Year 2013-14 Unincorporated Area Stormwater Budget, which is part of the Department of Public Works General Fund Budget. Funding for costs under the MOA in Fiscal Year 2014-15 will be requested through the annual budget process.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The BC Bacteria TMDL was adopted on June 8, 2006, and became effective on April 27, 2007. Pursuant to the BC Bacteria TMDL, the responsible agencies jointly submitted a CMP to the Regional Board. The Regional Board subsequently approved the CMP and further directed the responsible agencies to implement the CMP.

In order to implement the CMP, the responsible agencies combined their resources and executed cooperative cost-sharing MOAs on June 30, 2010. Each responsible agency signed a separate MOA with the City based on its effective jurisdictional land area within the contributing watershed. The MOAs expired on June 30, 2012. Additionally, due to the approved monitoring timeline, the City continues to implement the monitoring activities that are the subject of the MOA to ensure compliance with the BC Bacteria TMDL.

The new National Pollutant Discharge Elimination System Permit for municipal stormwater and urban runoff discharge within Los Angeles County became effective on December 28, 2012. The BC Bacteria TMDL was incorporated into the National Pollutant Discharge Elimination System Permit, and as a result, the BC Bacteria TMDL-responsible agencies are mandated to demonstrate compliance with the BC Bacteria TMDL through continued participation in the monitoring programs and subject to enforcement if the water quality standards established by this BC Bacteria TMDL are not met.

On June 7, 2012, the Regional Board adopted Resolution No. R12-008, which revised the BC Bacteria TMDL by removing the fecal coliform objective for freshwaters designated for water contact recreation and limited water contact recreation. On October 15, 2012, the Regional Board approved a request from the responsible agencies to discontinue fecal coliform monitoring at four (4) monitoring stations located along Ballona Creek and its tributaries. On December 18, 2012, the Regional Board approved a request from the responsible agencies to replace the accelerated receiving water monitoring required by the original BC Bacteria TMDL with an Outfall Monitoring Plan required by Resolution No. R12-008. On April 26, 2013, the responsible agencies submitted the Outfall Monitoring Plan. The City will modify the CMP to reflect the approved revisions.

In order to revise, fund, and continue implementing the BC Bacteria TMDL CMP, each BC Bacteria TMDL-responsible agency would need to renew its MOA with the City. Each agency's share, including the County's and the City's, is based on the jurisdictional land area within the contributing watershed identified in the BC Bacteria TMDL.

The County and the City staff and their respective counsels have approved the MOA as to form. Upon the Board's delegation of authority, the MOA, in a form substantially similar to the enclosed, will be subsequently reviewed and approved as to form by County Counsel prior to execution by the Director of Public Works or her designee.

ENVIRONMENTAL DOCUMENTATION

The proposed activities are statutorily exempt from CEQA. The proposed MOA, which includes funding for continued implementation of the BC Bacteria TMDL CMP, involves feasibility and planning studies for possible future actions, which have not been approved, adopted, or funded, and, therefore, are exempt under Section 15262 of the CEQA Guidelines. Further, the proposed activities do not include the adoption of a plan that will have a legally binding effect on later activities. Public Works will return to the Board for approval of any projects recommended as a result of the CMP process, along with the appropriate environmental documentation.

Upon the Board's approval of the recommended actions, Public Works will file a Notice of Exemption with the County Clerk in accordance with Section 15062 of the CEQA Guidelines.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of the recommended actions will benefit the County by sharing in the cost of implementing the BC Bacteria TMDL CMP. There will be no negative impact on current services.

CONCLUSION

Please return two adopted copies of this letter to the Chief Executive Office, Community and Municipal Services Cluster, and one copy to Public Works, Watershed Management Division.

Respectfully submitted,



GAIL FARBER
Director

GF:GH:jht

Enclosures

c: Chief Executive Office (Rita Robinson)
County Counsel
Executive Office

MEMORANDUM OF AGREEMENT
BETWEEN
CITY OF LOS ANGELES
AND
COUNTY OF LOS ANGELES

REGARDING THE ADMINISTRATION AND COST SHARING OF
IMPLEMENTING THE COORDINATED MONITORING PLAN FOR THE
TOTAL MAXIMUM DAILY LOAD FOR BACTERIAL INDICATOR
DENSITIES IN BALLONA CREEK, BALLONA ESTUARY, & SEPULVEDA
CHANNEL

This Memorandum of Agreement (“Agreement”) is made and entered into as of the date of the last signature set forth below by and among the City of Los Angeles, a municipal corporation, and the County of Los Angeles, a political subdivision of the State of California, collectively referred to herein as the “Parties” or individually as “Party”, with respect to the following:

RECITALS

WHEREAS, the Regional Water Quality Control Board, Los Angeles Region (“LARWQCB”) adopted the Total Maximum Daily Load (TMDL) for Bacterial Indicators in Ballona Creek, Ballona Estuary & Sepulveda Channel (BC Bacteria TMDL) on June 8, 2006, by Resolution No. 2006-011; and

WHEREAS, the BC Bacteria TMDL became effective on April 27, 2007; and

WHEREAS, the BC Bacteria TMDL has been incorporated into the 2012 National Pollutant Discharge Elimination System Permit for Municipal Storm Water and Urban Runoff Dischargers within the County of Los Angeles, and the incorporated cities therein except the City of Long Beach, by Order R4-2012-0175 on December 28, 2012; and

WHEREAS, the BC Bacteria TMDL addresses water quality impairments caused by elevated bacterial indicator densities in Ballona Creek, Ballona Estuary, Sepulveda Channel, and their tributaries, and has the intent of improving water quality in these water bodies; and

WHEREAS, the BC Bacteria TMDL identifies the Cities of Los Angeles, Culver City, Inglewood, West Hollywood, Beverly Hills and Santa Monica, the County of Los Angeles, and the State of California through its Department of Transportation (Caltrans), herein collectively referred to as “Regulated Entities” or individually as “Regulated Entity”, as jointly responsible for the meeting the requirements of the BC Bacteria TMDL; and

WHEREAS, the BC Bacteria TMDL requires the preparation and implementation of a Coordinated Monitoring Plan (“CMP”) by the Regulated Entities designated to monitor water quality within Ballona Creek, Ballona Estuary, and Sepulveda Channel; and

WHEREAS, the CMP entitled “Ballona Creek, Ballona Estuary, and Sepulveda Channel Bacteria TMDL Coordinated Monitoring Plan” was submitted to the LARWQCB by the Regulated Entities on January 29, 2009, after receiving conditional approval by the LARWQCB on December 16, 2008 which required that monitoring be started by June 2009; and

WHEREAS, the LARWQCB adopted Resolution R10-005 on July 8, 2010, to remove the fecal coliform objective for freshwaters designated for water contact recreation, which was approved by U.S. Environmental Protection Agency (U.S. EPA) on December 5, 2011; and

WHEREAS, the BC Bacteria TMDL was amended (“Amended BC Bacteria TMDL”) and adopted by the LARWQCB on June 7, 2012 and approved by the State Water Resources Control Board on March 19, 2013, but is awaiting final approval by the Office of Administrative Law (OAL), and U.S. EPA before becoming effective; and

WHEREAS, the Amended BC Bacteria TMDL will require the submittal of an Outfall Monitoring Plan within six months of its effective date, which will replace the requirement by the original BC Bacteria TMDL of accelerated monitoring of the monitoring locations that do not attain the water quality objectives; and

WHEREAS, the Regulated Entities requested the LARWQCB on November 14, 2012 the removal of accelerated monitoring requirement prior to the effective date of the Amended BC Bacteria TMDL, which was approved by the LARWQCB in a letter dated December 18, 2012 on the condition that the Outfall Monitoring Plan be included; and

WHEREAS, the Regulated Entities submitted the Outfall Monitoring Plan for review and approval by the LARWQCB on April 26, 2013; and

WHEREAS, the Regulated Entities have agreed to cooperatively share in fully funding the estimated costs of the implementation of the CMP and Outfall Monitoring Plan contained in Table 3 of Exhibit A, based on the cost allocation formula contained in Table 1 of Exhibit A of this Agreement; and

WHEREAS, the City of Los Angeles has the expertise and equipment to perform sampling services, laboratory analyses, and reporting services (“Monitoring Services”) consistent with the CMP and Outfall Monitoring Plan; and

WHEREAS, the Regulated Entities have agreed to retain the City of Los Angeles to perform the Monitoring Services on their behalf at locations identified in the CMP and Outfall Monitoring Plan, the Regulated Entities have agreed to pay the City of Los Angeles for its Monitoring Services, and the City of Los Angeles is willing to provide, perform, and be reimbursed for such Monitoring Services as indicated in Exhibit A; and

WHEREAS, the previous agreement for cost-sharing of monitoring for the BC Bacteria TMDL expired on June 30, 2012; and

WHEREAS, the Regulated Entities desire to enter into new agreements for the period of July 1, 2012 through June 30, 2015 to continue the Monitoring Services for the BC Bacteria TMDL performed by the City of Los Angeles as well as the additional Monitoring Services for outfall monitoring; and

WHEREAS, to expedite the cost-sharing of Monitoring Services as contained in Exhibit A of this Agreement, the Regulated Entities have agreed that the City of Los Angeles will enter into separate, but substantially the same agreements between the City of Los Angeles and each Regulated Entity;

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein, the Parties do hereby agree as follows:

Section 1. Recitals. The recitals set forth above are fully incorporated as part of this Agreement.

Section 2. Purpose. The purpose of this Agreement is to cooperatively fund the implementation of the CMP and the Outfall Monitoring Plan and to coordinate the payment and performance of the Monitoring Services.

Section 3. Cooperation. The Parties shall fully cooperate with one another to attain the purposes of this Agreement.

Section 4. Voluntary Nature. This Agreement is voluntarily entered into for the implementation of the CMP and the Outfall Monitoring Plan.

Section 5. Term. This Agreement shall become effective on the date of final execution by the Parties and it shall remain and continue in effect until June 30, 2015.

Section 6. Continuation of Monitoring. The Regulated Entities agree that any costs incurred by the City of Los Angeles for monitoring performed between July 1, 2012 and the execution date of this Agreement be cost-shared by the Regulated Entities. The costs and invoicing amount for the period of July 2012 – June 2013 as contained in Exhibit A are based on continuation of the Monitoring Services as of July 1, 2012.

Section 7. Coordinated Monitoring Plan and Outfall Monitoring Plan. The CMP addresses receiving water monitoring and consists of the regulatory background, ambient and effectiveness monitoring, monitoring sites, sampling parameters, analytical methods, schedule, reporting, and other regulatory requirements. The Outfall Monitoring Plan addresses monitoring of dry weather discharges from outfalls and consists of the regulatory background, sampling frequencies, protocols for enhanced outfall monitoring, analytical methods, schedule and reporting. Both plans are incorporated into this Agreement by this reference.

Section 8. Role of the County of Los Angeles.

- a) Payment. – The County of Los Angeles agrees, subject to annual budget authority, to pay the City of Los Angeles for the Monitoring Services in the amounts show in Table 4 of Exhibit A, based on the cost allocation formula in Table 1 and the total estimated annual costs in Table 3 of Exhibit A, attached hereto and made a part of the Agreement by this reference. Exhibit B of this Agreement details the estimated annual cost for the Monitoring Services.
- b) Documentation. - The County of Los Angeles agrees to provide all requested information and documentation in the possession of the County of Los Angeles and available for release to the City of Los Angeles that is deemed necessary to perform the Monitoring Services at no cost to the City of Los Angeles.
- c) Grant of Access Rights. - During the term of this Agreement, the County of Los Angeles grants the City of Los Angeles the right of access and entry to all County of Los Angeles storm drains, channels, creeks, beaches, and existing monitoring stations subject to this Agreement (the "Property") to achieve the purposes of this Agreement. Prior to exercising said right of entry, the City of Los Angeles shall provide written notice to the County of Los Angeles at least 72 hours in advance and shall obtain written authorization for such access and entry. For the purposes of this provision, written notice shall include notice delivered via e-mail that has been delivered to the County of Los Angeles Representative identified on Attachment C. All notices provided pursuant to this article shall be delivered to the representative of the County of Los Angeles to be notified. However, should the City of Los Angeles require access to Los Angeles County Flood Control District facilities such as storm drains, channels, creeks, and existing monitoring stations, the City of Los Angeles shall obtain right of access and entry under a Permit from, or a separate agreement with, the Los Angeles County Flood Control District. The City of Los Angeles shall indemnify, defend and hold harmless the County of Los Angeles, its Special Districts, the LACFCD, and their elected and appointed officers, employees, and agents, from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert fees), arising from or connected with the entry onto the Property. This indemnification is in addition to the other indemnities made herein.

Section 9. Role of the City of Los Angeles.

- a) Monitoring. – The City of Los Angeles will perform the Monitoring Services at locations indicated in the CMP and the Outfall Monitoring Plan.
- b) Reporting. – The City of Los Angeles will provide the LARWQCB with monthly summary monitoring reports as described in the CMP and annual reports as described in the Outfall Monitoring Plan and distribute copies of the monthly reports to the Regulated Entities prior to submittal to the LARWQCB for review and approval and copies of the annual reports at least 30 days prior to submittal to the LARWQCB for review and approval. In addition, the City of Los Angeles will provide the County of Los Angeles the data used to prepare the monthly reports within 30 days after

submittal to the LARWQCB. The data will be transmitted electronically on a monthly basis in a comma-separated value (CSV) format that contains the table structure and syntax as agreed upon by the Parties.

- c) Invoicing. - The City of Los Angeles will annually invoice the County of Los Angeles as shown in Table 4 of Exhibit A. The invoice amounts have been adjusted for annual 3% inflation from July 2013 to June 2015 and a flat 5% project administration and management cost for each year as shown in Tables 2 and 3 of Exhibit A.

Section 10. Invoice and Payment.

- a) Annual Payment. – The County of Los Angeles shall pay the City of Los Angeles for its proportional share of the estimated cost for Monitoring Services and project administration and management costs as shown in Table 4 of Exhibit A within forty five (45) days of receipt of the invoice from the City of Los Angeles. The cost estimates presented in Exhibits A and B have been agreed upon and are included in the Agreements between the City of Los Angeles and the other Regulated Entities, and are subject to changes in the CMP and Outfall Monitoring Plan pursuant to LARWQCB unforeseen new requirements which affect cost, unforeseen challenges in the field which affect cost, or any decreases or increases of the estimated frequency of accelerated sampling. Any changes proposed to the County's proportional share are subject to funding appropriation and advance written agreement of the County.
- b) Invoice. – The City of Los Angeles will invoice the County of Los Angeles as shown in Table 4 of Exhibit A. The annual payments for the period of July 2012 – June 2015 will be invoiced in January of each year starting January 2013 or annually in the month of the execution of this Agreement, whichever is later.
- c) Contingency. – The City of Los Angeles will notify the Regulated Entities if actual expenditures for Monitoring Services are anticipated to exceed the cost estimates contained in Exhibits A and B and obtain advance written approval of such expenditures from all Regulated Entities. Upon approval of substantiated additional expenditures by the County of Los Angeles, and subject to funding allocation, the County of Los Angeles agrees to pay the City of Los Angeles for its proportional share of these additional expenditures at an amount not to exceed 10% of the estimated cost for Monitoring Services as shown in Exhibit A. This 10% contingency will not be invoiced, unless actual expenditures exceed the cost estimates for Monitoring Services. Expenditures that exceed the 10% contingency will require an amendment of this Agreement.
- d) Reconciliation of this Agreement. - Unexpended funds at the termination of this Agreement will be returned to the County of Los Angeles using the cost allocation formula in Table 1 of Exhibit A. At the end of each fiscal year, the City of Los Angeles will provide the Regulated Entities with a statement with the actual expenditures.

Section 11. Indemnification.

- a) Pursuant to Government Code Section 895.4 and 895.6, each Party shall each assume the full liability imposed upon it, or any of its officers, agents or employees, by law for injury caused by any negligent or wrongful act or omission occurring in the performance of this Agreement.
- b) Each Party indemnifies and holds harmless the other party for any loss, costs, or expenses that may be imposed upon such other party by virtue of Government Code section 895.2, which imposes joint civil liability upon public entities solely by reason of such entities being parties to an agreement, as defined by Government Code Section 895.
- c) In the event of third-party loss caused by negligence, wrongful act or omission by more than one Party, each Party shall bear financial responsibility in proportion to its percentage of fault as may be mutually agreed or judicially determined. The provisions of Civil Code Section 2778 regarding interpretation of indemnity agreements are hereby incorporated.

Section 12. Termination of Agreement. Either Party may terminate this Agreement for any reason, in whole or part, by giving the other Party thirty (30) days written notice thereof. The County of Los Angeles shall be responsible for its proportional share of the allocated costs of CMP and Outfall Monitoring Plan activities performed up to the date of the termination. The City of Los Angeles shall notify in writing all Regulated Entities within fourteen (14) days of receiving written notice from any Party that intends to terminate this Agreement. If one of the Regulated Entities elects to withdraw from cost sharing of Monitoring Services before the end of the term of this Agreement, it is agreed that the remaining cost share will be distributed among the other Regulated Entities based on the existing cost allocation formula, subject to written amendment of this Agreement as agreed upon by the remaining Regulated Entities. Additional funding by the County of Los Angeles is subject to budget authority.

Section 13. General Provisions.

- a) Notices. Any notices, bills, invoices, or reports relating to this Agreement, and any request, demand, statement or other communication required or permitted hereunder shall be in writing and shall be delivered to the Representative of the Party at the address set forth in Exhibit C. Parties shall promptly notify each other of any change of contact information, including personnel changes, provided in Exhibit C. Written notice shall include notice delivered via email or fax. A notice shall be deemed to have been received on (a) the date of delivery, if delivered by hand during regular business hours, or by confirmed facsimile or by email; or (b) on the third (3) business day following mailing by registered or certified mail (return receipt requested) to the addresses set forth in Exhibit C.

- b) Administration. For the purposes of this Agreement, the Parties hereby designate as their respective Party Representatives, the persons named in Exhibit C. The designated Party Representatives, or their respective designees, shall administer the terms and conditions of this Agreement on behalf of their respective Party. Each of the persons signing below on behalf of a Party represents and warrants that they are authorized to sign this Agreement on behalf of such Party.
- c) Relationship of Parties. The Parties are and shall remain at all times as to each other, wholly independent entities. No Party to this Agreement shall have power to incur any debt, obligation, or liability on behalf of the other Party unless expressly provided to the contrary by this Agreement. No employee, agent, or officer of a Party shall be deemed for any purpose whatsoever to be an agent, employee, or officer of another Party.
- d) Binding Effect. This Agreement shall be binding upon and inure to the benefit of each Party to this Agreement and their respective heirs, administrators, representatives, successors and assigns.
- e) Amendment. The terms and provisions of this Agreement may not be amended, modified or waived, except by an instrument in writing signed by both Parties.
- f) Waiver. Waiver by either Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party to any breach of the provisions of this Agreement shall not constitute a waiver of any other provision, nor a waiver of any subsequent breach or violation of any provision of this Agreement.
- g) Law to Govern; Venue. This Agreement shall be interpreted, construed, and governed according to the laws of the State of California. In the event of litigation between the Parties, venue in the state trial courts shall lie exclusively in the County of Los Angeles.
- h) No Presumption in Drafting. The Parties to this Agreement agree that the general rule that an Agreement is to be interpreted against the Party drafting it, or causing it to be prepared shall not apply.
- i) Entire Agreement. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements, whether written or oral, with respect thereto.
- j) Severability. If any term, provision, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and this Agreement shall be read and constructed without the invalid, void, or unenforceable provision(s).

- k) Counterparts. This Agreement may be executed in any counterparts, each of which shall be an original, but all of which taken together shall constitute but one and the same instrument, provided, however, that such counterparts shall have been delivered to all Parties to this Agreement.
- l) Both Parties have been represented by counsel in the preparation and negotiation of this Agreement. Accordingly, this Agreement shall be construed according to its fair language.

DRAFT

IN WITNESS WHEREOF, by order of the Board of Supervisors, this Agreement has been executed on behalf of the County of Los Angeles on the day, month, and year indicated on the following page. On behalf of the City of Los Angeles, the Board of Public Works executed this Agreement and attested by the City Clerk as of the date specified below:

CITY OF LOS ANGELES

Date: _____

By: _____
Capri W. Maddox, President
Board of Public Works

ATTEST:

By: _____
June Lagmay
City Clerk

APPROVED AS TO FORM:

Carmen Trutanich
City Attorney

By: _____
John A. Carvalho
Deputy City Attorney

COUNTY OF LOS ANGELES

COUNTY OF LOS ANGELES,
A political subdivision of the
State of California

Date: _____

By: _____
GAIL FARBER
Director of Public Works

APPROVED AS TO FORM:

JOHN F. KRATTLI
County Counsel

By: _____
Deputy

EXHIBIT A

Total Estimated Cost-Sharing for Ballona Creek Bacteria Monitoring and Invoicing by City of Los Angeles

Table 1. Cost Allocation Formula.

Agency	Acres ⁽¹⁾	Square miles	% of Area ⁽²⁾
City of Los Angeles	67,053.44	104.77	81.32
Los Angeles County	3,928.91	6.14	4.77
City of Beverly Hills	3,630.38	5.67	4.40
City of Culver City	3,234.81	5.05	3.92
City of Inglewood	1,934.57	3.02	2.35
Caltrans	1,206.00	1.88	1.46
City of West Hollywood	1,201.43	1.88	1.46
City of Santa Monica	264.97	0.41	0.32
Total	82,454.51	128.84	100.00

⁽¹⁾ Land distribution data as defined by LARWQCB.

⁽²⁾ Proportionality of cost-sharing by Regulated Entities is based on each Regulated Entity's % area of the total watershed area of 82,455 acres.

Table 2. Baseline Monitoring Costs.

Period	Monitoring Services ⁽¹⁾	Project Administration and Management (5%)	Monitoring Cost
July 2012 – June 2013	\$ 120,726.16	\$ 6,036.31	\$ 126,762.47
July 2013 – June 2014	\$ 150,355.16	\$ 7,517.76	\$ 157,872.92
July 2014 – June 2015	\$ 120,791.16	\$ 6,039.56	\$ 126,830.72

⁽¹⁾ Estimated cost for Monitoring Services, see Exhibit B.

Table 3. Total Estimated Costs and Contingency.

Period	Monitoring Cost	Inflation (3%)	Total Estimated Cost	Contingency ⁽¹⁾
July 2012 – June 2013	\$ 126,762.47	--	\$ 126,762.47	\$ 12,676.25
July 2013 – June 2014	\$ 157,872.92	\$ 4,736.19	\$ 162,609.11	\$ 16,260.91
July 2014 – June 2015	\$ 130,635.64 ⁽²⁾	\$ 3,919.07	\$ 134,554.71	\$ 1,345.55

⁽¹⁾ Contingency is 10% of the total estimated cost. Contingency will not be invoiced unless there is a need for its expenditure as agreed by all Regulated Entities

⁽²⁾ Baseline amount plus inflation adjustment in second year

Table 4. Proportional Share of County of Los Angeles and Invoicing by City of Los Angeles.

Period	Invoice amount to County of Los Angeles⁽¹⁾	Contingency (10%)	County of Los Angeles share including contingency
July 2012 – June 2013	\$ 6,046.57 ⁽²⁾	\$ 604.60	\$ 6,651.17
July 2013 – June 2014	\$ 7,756.45	\$ 775.65	\$ 8,532.10
July 2014 – June 2015	\$ 6,418.26	\$ 641.83	\$ 7,060.09
Total	\$ 20,221.28	\$ 2,022.13	\$22,243.36

⁽¹⁾ Total estimated cost from Table 2 multiplied by percentage area from Table 1, and excluding the 10% contingency.

⁽²⁾ The first invoice will be adjusted for reconciliation of actual expenditures for Monitoring Services performed over July 2009 – June 2012. Actual expenditures over this period are anticipated to be lower than the estimated, invoiced amounts. The County of Los Angeles will be credited accordingly and this credit will be subtracted from the invoice amount over July 2012 – June 2013; the actual amount will be determined upon termination of the previous agreement.

EXHIBIT B

Estimated Annual Costs for Ballona Creek Bacteria TMDL Monitoring

1. Receiving Water Monitoring per Coordinated Monitoring Plan

Table 1. Estimated annual cost (not adjusted for inflation).

Item No.	Item description	Item Cost
1a.	Routine cost per weekly event Eight (8) sampling sites sum(2a-2i)	\$ 1,631.42
1b.	Routine cost 52 weeks (52 x Item 1a)	\$ 84,833.84
1d.	DSM Monthly Overhead (12 x Item E)	\$ 892.32
1e.	Total Cost	\$ 85,726.16

Table 2. Monitoring costs for different bacterial indicators.

Costs		
A	Fecal Coliform	\$54.69
B	Total Coliform/E. coli	\$44.76
C	Enterococcus	\$39.80
D	WPD sampling/site	\$120.00
E	DSM Monthly Overhead	\$74.36
F	QA Samples	2 per week

Table 3. Monitoring costs per station.

Cost per sample based on site				
	No of Samples	Site	Item Cost	See costs
2a	1	BCB-1	\$174.69	A,D
2b	1	BCB-2	\$164.76	B,D
2c	1	BCB-3	\$164.76	B,D
2d	1	BCB-4	\$164.76	B,D
2e	1	BCB-5	\$164.76	B,D
2f	1	BCB-6	\$204.56	B,C,D
2g	1	BCB-7	\$204.56	B,C,D
2h	1	BCB-8	\$204.56	B,C,D
2i	2	QA Controls (weekly)	\$184.01	(A+B)+ (B+C)

2. Implementation of Outfall Monitoring Plan

Task	Fiscal Year 2012/13	Fiscal Year 2013/14	Fiscal Year 2014/15
Plan development	\$35,000	-	-
Outfall monitoring ¹	-	\$42,805	\$21,403
Data analysis and QA/QC	-	\$11,748	\$7,282
Annual report	-	\$10,076	\$6,380
Total	\$35,000	\$64,629	\$35,065

¹ The Outfall Monitoring Plan that was submitted to the LARWQCB on April 26, 2013 specified two outfall surveys in fiscal year 2013-14 and one outfall survey in fiscal year 2014-15.

3. Estimated Annual Cost for Monitoring Services (not adjusted for inflation)

Monitoring	Fiscal Year 2012/13	Fiscal Year 2013/14	Fiscal Year 2014/15
CMP Monitoring	\$ 85,726.16	\$ 85,726.16	\$ 85,726.16
Outfall Monitoring	\$ 35,000.00	\$ 64,629.00	\$ 35,065.00
Total	\$ 120,726.16	\$ 150,355.16	\$ 120,791.16

EXHIBIT C
Ballona Creek Watershed
Representatives of Regulated Entities

Primary Agency:

1. City of Los Angeles (“Primary agency”)
Watershed Protection Division
1149 South Broadway Blvd.
Los Angeles, CA 90015
Mail Stop: 1149-756
Party Representative: Hubertus Cox, Ph.D, P.E.
Hubertus.Cox@lacity.org
Phone No.: (213) 485-3984
Fax: (213) 485-3939
2. Hyperion Treatment Plant, Environment Monitoring Division
12000 Vista Del Mar
Harry Pregerson Technical Support Facility
Playa Del Rey, CA 90293
Party Representative: Mas Dojiri, Environmental Monitoring Division
mas.dojiri@lacity.org
Fax: (310) 648-5731

Responsible Agencies:

1. County of Los Angeles, Watershed Management Division, 11th floor
900 South Fremont Ave.
Alhambra, CA 91803-1331
Party Representative: Armond Ghazarian, P.E.
Aghazar@dpw.lacounty.gov
Phone No.: (626) 458-7149
Fax: (626) 457-1526
2. City of Beverly Hills
455 North Rexford Drive
Beverly Hill, CA 90210
Party Representative: Josette Descalzo, Water Quality Specialist
jdescalzo@beverlyhills.org
Phone No.: (310) 285-2467
Fax: (310) 285-2467

3. City of Culver City
9770 Culver Blvd., 2nd Floor
Culver City, CA 90232-0507
Party Representative: Charles D. Herbertson, Director of Public Works/City Engineer
charles.herbertson@culvercity.org
Phone No.: (310) 253-5630
Fax: (310) 253-5626
4. City of Inglewood
Public Works Department
1 Manchester Blvd.
Inglewood, CA 90301
Party Representative: Lauren Amimoto, Senior Administrative Analyst
lamimoto@cityofinglewood.org
Phone No.: (310) 412-5192
Fax: (310) 412-5552
5. California Department of Transportation, District 07 (Caltrans)
100 South Main Street, Suite 100, MS 13
Los Angeles, CA 90012
Party Representative: Bob Wu, Senior Transportation Engineer
robert_wu@dot.ca.gov
Phone No.: (213) 897-8636
Fax: (213) 897-0205
6. City of West Hollywood
Department of Transportation and Public Works
8300 Santa Monica Blvd.
West Hollywood, CA 90069-6216
Party Representative: Sharon Perlstein, City Engineer
Sperlstein@weho.org
Phone No.: (323) 848-6368
Fax: (323) 848-6564
7. City of Santa Monica
Environmental Programs Division
200 Santa Monica Pier #K
Santa Monica, CA 90401
Party Representative: Neal Shapiro, Urban Runoff Management Coordinator
Neal.Shapiro@smgov.net, www.santa-monica.org/environment
Phone No.: (310) 458-8223
Fax: (310) 393-1279